REMARKS

Claims 39 and 40 are pending in this application. Applicants have amended claims 39 and 40 to recite an antibacterial agent that specifically binds to an S-yneS polypeptide, and that the antibacterial agents are identified by a method that includes detecting binding of a test compound to an S-yneS polypeptide. Support for these amendments can be found throughout the specification, e.g., at page 3, line 32, to page 4, line 2, and at page 34, lines 13 to 17. As requested in the Office Action, applicants have amended the specification to update the paragraph entitled "Cross-Reference to Related Application." Further, the paragraph beginning at page 14, line 29 has been amended so that text within the paragraph is no longer browser executable. As a result, the amendments described above add no new matter to the application.

Objections

The Office Action objected to the specification as allegedly missing a complete priority statement. Applicants have amended the specification to recite that U.S. Patent Application Serial No. 09/163,445 is now U.S. Patent No. 6,472,377, thus obviating the present objection.

Next, the Office Action objected to the specification as allegedly containing browser executable code. Applicants have amended the paragraph beginning at page 14, line 29, so that text within the paragraph is no longer browser executable.

Accordingly, applicants request that both objections discussed above be reconsidered and withdrawn.

35 U.S.C § 112, Second Paragraph

Claims 39 and 40 have been rejected as allegedly indefinite for two reasons. Applicants request reconsideration and withdrawal of these rejections in view of the amendments and following comments.

First, the Office Action asserts that claims 39 and 40 are indefinite because the polypeptide recited in both claims is identified by the term "S-yneS." Applicants respectfully traverse this rejection because the term is adequately defined throughout the specification, e.g., at page 1, line 23 to page 2, line 19, and at page 17, line 28 to page 18, line 8. The specification at these pages provides an an amino acid sequence of the S-yneS polypeptide (SEQ ID NO:1), and

indicates that the term includes polypeptides having sequences substantially identical to this S-yneS polypeptide, e.g., polypeptides having an animo acid sequence at least 80% identical to SEQ ID NO:1. Accordingly, applicants submit that the term "S-yneS" is definite.

Next, the Office Action asserts that the term "interaction" is indefinite. Applicants respectfully disagree because the term is clear based on its use throughout the specification. This term is defined in several locations as "binding directly or indirectly" (see, e.g., page 2, lines 22-24). Thus, claims 39 and 40 are clear in the use of "interaction." However, in the interest of moving the present application toward allowance, applicants have amended the claims to recite "binding" rather than "interaction."

Accordingly, applicants request that the rejections of claims 39 and 40 discussed above be reconsidered and withdrawn.

35 U.S.C. § 102 (b)

Claims 39 and 40 have been rejected as allegedly anticipated by Davies (U.S. Patent No. 3,681,493) and by Currie et al. (U.S. Patent No. 4,963,569). Applicants respectfully traverse these rejections for the reasons discussed below.

With respect to Davies, the Office Action states (at page 4):

> Davies discloses antibacterial pharmaceutical compositions comprising an antibacterial agent and a pharmaceutically acceptable excipient or carrier (see claims and abstract).
>
> The products of the prior art reference appear to be the same as the claimed product because they appear to possess the same functional characteristics, i.e., (antibacterial). The purification or production of a product by a particular process does not impart novelty or unobviousness to a product when the same product is taught by the prior art. This is particularly true when the properties of the product are not changed by the process in an unexpected manner.

Applicants submit that Davies does not anticipate amended claims 39 and 40 because Davies does not disclose all of the elements recited in these claims. Davies describes using derivatives of di-(2-thienyl)borinic acid or phenyl-2-thienylborinic acid (e.g., 8-quinolyl di-(2-thienyl)-borinate) as antibacterial agents. Amended claims 39 and 40 recite compositions that include a pharmaceutically acceptable excipient and an antibacterial agent that specifically binds

to an S-yneS polypeptide, and that the antibacterial agent is identified by a method recited in each claim. Applicants submit that Davies does not disclose or suggest antibacterial agents that specifically bind to S-yneS polypeptides. The Office Action points to no evidence suggesting that Davies' compounds possess this characteristic. To the contrary, the purpose in targeting the polypeptide produced by the essential gene yneS is to generate new classes of antibiotics and, therefore, applicants submit that previously-discovered antibacterial compounds (such as those described in Davies') are unlikely to specifically bind to S-yneS polypeptides.

Because Davies does not disclose all elements recited in claims 39 and 40, it does not anticipate these claims. Accordingly, applicants request that the present rejection be withdrawn.

With respect to Currie et al., the Office Action states (at page 5) that Currie "discloses antibacterial pharmaceutical compositions comprising an antibacterial agent and a pharmaceutically acceptable excipient or carrier," and reiterates the second paragraph quoted above to support the present rejection. Applicants respectfully submit that Currie does not anticipate amended claims 39 and 40 because Currie, like Davies, does not disclose all of the elements recited in these claims. Currie describes using L-654,040 (formula name: 2-(2,3-dihydroxyphenyl)-4,5-dihydro-N-[3-[(1-hydroxy-2-oxo-3(R)-piperidinyl)amino]-2(R)-methyl-3-oxopropyl]-5R-methyl-4S-oxazolecarboxamide) as an antibacterial agent. Applicants submit that Currie does not disclose or suggest antibacterial agents that specifically bind to S-yneS polypeptides. As with Davies, the Office Action points to no evidence suggesting that Currie's compound (L-654,040) specifically binds S-yneS polypeptides. Because Currie does not disclose all elements recited in claims 39 and 40, it does not anticpate these claims. Thus, applicants request that the present rejection be withdrawn.

CONCLUSION

Applicants request that all claims be allowed in view of the amendments to the claims and for the reasons discussed above.